

Atty. Dkt. No. 023340-0201

REMARKS

The present invention relates to an exercise suit which is adapted to facilitate holding in of the stomach and abdominal muscles of the user. Inventive exercise suits include a torso portion adapted to substantially cover the torso of the user. The torso portion of the inventive exercise suit includes a manually adjustable tension device designed to ensure a tight fit of the suit over the abdominal region. The exercise suit also includes one or more flaps secured to a side of the torso portion of the suit, wherein each flap can be secured across at least a portion of the abdominal region of the user with a fastener.

By present communication, claims 1, 17 and 18 have been amended, and new claims 20-28 have been added. No new matter is added by these amendments. Claims 6-9, 12-13 and 19 have been cancelled without prejudice. Accordingly, claims 1-5, 10-11, 14-18 and 20-28 are pending. The present status of all claims in the application is provided in the Listing of Claims presented herein beginning on page 2 of this communication.

Claims 1, 17 and 18 have been amended to define Applicant's invention with greater particularity. Specifically, claims 1 and 18 have been amended to further include the feature that the exercise garment includes a corset arrangement extending from a top portion of the torso portion of the exercise garment downward through at least a portion of the abdominal region. This was previously indicated by the Examiner to be allowable subject matter. (See Office Action dated February 8, 2006; page 4, item 7). Support for this amendment is found in original claim 6. Claim 17 has been amended to depend from claim 16, rather than claim 15.

New claim 20 is directed to the exercise garment of original claim 1, and further specifies that the exercise garment includes a leg portion adapted to cover at least a portion of the user's legs, and a plurality of pockets located on either the torso or leg portion of the exercise garment, corresponding to original claims 10, 11 and 13. This was previously indicated by the Examiner to be allowable subject matter. (See Office Action dated February 8, 2006; page 4, item 7). Support for new claim 20 is found in original claims 1, 10, 11 and 13. Claims 21-28 correspond to original claims 2-6 and 14-16.

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Rejection under 35 U.S.C. §102(b) as Anticipated by Vadher (U.S. Pat. No. 5,716,307)

Claims 1-5, 7-8, 11-12 and 18-19 stand rejected under 35 U.S.C. §102(b), as allegedly being anticipated by Vadher (U.S. Patent No. 5,716,307). While not agreeing with the rejection, claims 1 and 18 have been amended in order to reduce the issues and expedite prosecution of the present application. Specifically, Applicant has amended claims 1 and 18 to include the feature that the tension control element includes a corset arrangement extending from a top portion of the torso portion of the exercise garment downward through at least a portion of the abdominal region. As noted previously, the Examiner has indicated that such subject matter is allowable. (See Office Action dated February 8, 2006; page 4, item 7). Claims 2-5 and 11, all depending from claim 1, are allowable as depending from an allowable claim.

The rejection of claims 7-8, 12 and 19 has been rendered moot by the cancellation of the claim.

New claim 20 is directed to the exercise garment of original claim 1, and further specifies that the exercise garment includes a leg portion adapted to cover at least a portion of the user's legs, and a plurality of pockets located on either the torso or leg portion of the exercise garment; corresponding to original claims 10, 11 and 13. This was previously indicated by the Examiner to be allowable subject matter. (See Office Action dated February 8, 2006; page 4, item 7). New claims 21-24 (corresponding to original claims 2-5) all depend from new claim 20 and should also be allowed.

Withdrawal of the rejection and allowance of all claims are respectfully requested.

Rejections under 35 U.S.C. §103(a) as Obvious over Vadher (U.S. Pat. No. 5,716,307)

The rejection of claims 9, 14 and 15 under 35 U.S.C. §103(a), as allegedly being unpatentable over Vadher is respectfully traversed.

To establish a *prima facie* case of obviousness, three criteria must be met; there must be some motivation or suggestion, either in the cited publications or in knowledge available to one skilled in the art, to modify or combine the cited publications; there must be a reasonable

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expectation of success in combining the publications to achieve the claimed invention; and the publications must teach or suggest all of the claim limitations. *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2142. In analyzing obviousness, the Court of Appeals for the Federal Circuit has repeatedly cautioned that:

[t]he factual inquiry... must be based upon objective evidence of record.... [T]he best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.... [P]articular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.

In re Sang-Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002) (internal citations omitted).

As noted previously, claim 1 has been amended to require that the tension control element includes a corset arrangement extending from the upper abdominal region to the lower abdominal region of the user. This amendment was previously indicated by the Examiner to be allowable subject matter. (See Office Action dated February 8, 2006; page 4, item 7). Claims 14 and 15 each depend from amended claim 1 and should be allowable as depending from an allowable claim.

The rejection of claim 9 has been rendered moot by the cancellation of the claim.

Similarly, new independent claim 20 includes features from original claims 1, 10, 11 and 13, and was previously indicated by the Examiner to be allowable subject matter. (See Office Action dated February 8, 2006; page 4, item 7). New claims 26 and 27 (corresponding to original claims 14 and 15) depend from new claim 20 and should be allowed.

Withdrawal of the rejection and allowance of all claims are respectfully requested.

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In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to contact the undersigned so that a prompt disposition of this application can be achieved.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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